

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

CURTIS WINDSOR ADDERLY,

Plaintiff,

v.

Case No. 8:21-cv-2976-TPB-CPT

CITY OF TAMPA, ROBERT LAMB,  
MARLENE NEIBERT, and  
KATHERINE PENDZICK,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court on consideration of the report and recommendation of Christopher P. Tuite, United States Magistrate Judge, entered on January 26, 2022. (Doc. 10). Due to deficiencies in both filings, Judge Tuite recommends Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) be denied without prejudice, and the complaint (Doc. 1) be dismissed without prejudice with leave to file an amended complaint. Neither Plaintiff nor Defendants filed an objection to the report and recommendation.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); 718 F.2d 198, 199 (4th Cir. 1983); *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982). A district court must "make a de novo determination of those portions of the [report and recommendation] to which an objection is made." 28 U.S.C. § 636(b)(1)(C). When no objection is filed, a court reviews the report and recommendation for clear error. *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006); *Nettles v. Wainwright*, 677 F.2d 404, 409 (5th Cir. 1982).

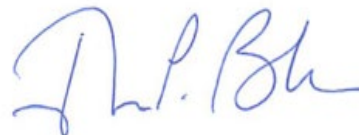
Upon due consideration of the record, including Judge Tuite's report and recommendation, the Court adopts the report and recommendation. Consequently, the motion to proceed *in forma pauperis* is denied without prejudice, and the complaint is dismissed without prejudice, with leave to amend to cure the deficiencies identified by Judge Tuite in his report and recommendation.

Accordingly, it is

**ORDERED, ADJUDGED, and DECREED:**

- (1) Judge Tuite's report and recommendation (Doc. 10) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
- (2) Plaintiff's motion to proceed *in forma pauperis* (Doc. 2) is **DENIED WITHOUT PREJUDICE**.
- (3) The complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**, with leave to amend.
- (4) Plaintiff is directed to file an amended complaint and motion to proceed without costs on or before March 3, 2022. Failure to file an amended complaint as directed will result in this Order becoming a final judgment. *See Auto. Alignment & Body Serv., Inc. v. State Farm Mut. Auto. Ins. Co.*, 953 F.3d 707, 719-20 (11th Cir. 2020).

**DONE** and **ORDERED** in Chambers, in Tampa, Florida, this 11th day of February, 2022.



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**TOM BARBER**  
**UNITED STATES DISTRICT JUDGE**